

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

CONCERNED TOW OPERATORS)
OF KANSAS CITY, et al.,)
)
Plaintiffs,)
)
vs.)
)
CITY OF KANSAS CITY, MISSOURI,)
et al.,)
)
Defendants.)

Case No. 12-1328-CV-W-ODS

ORDER GRANTING DEFENDANT TEGSCO, LLC'S MOTION TO STRIKE

Pending is Defendant Tegsco, LLC's (hereinafter "AutoReturn") Motion to Strike (Doc. # 37), which asks the Court to strike the second paragraph of part III on page 9 of Plaintiffs Reply to its Motion for Preliminary Injunction. Plaintiff did not respond and the time for doing so has passed. The Motion is granted.

The Court may strike from a pleading any "immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). The Court had broad discretion in considering the motion. *Stanbury Law Firm v. Internal Revenue Service*, 221 F.3d 1059, 1063 (8th Cir. 2000). "[A]llegations may be stricken if they have no real bearing on the case." *Kay v. Sunbeam Prods., Inc.*, No. 2:09-CV-4065-NKL, 2009 WL 1664624, at *1 (W.D. Mo. June 15, 2009).

In this case, Plaintiffs allege the following in their Reply Suggestions to their Motion for Preliminary Injunction:

Although the issuance of an injunction will no doubt alter the financial position of the defendant AutoReturn, that defendant has not filed any objection to the plaintiffs' request for a preliminary injunction. Accordingly, any objection of AutoReturn is waived and the Court should not weigh any potential harm to AutoReturn in its consideration of the plaintiffs' request for preliminary injunction

Reply Suggestions (Doc. # 36), p. 9. AutoReturn properly points out that Plaintiffs Motion for a preliminary injunction only seeks to prevent Defendant City of Kansas City,

Missouri, from enforcing the ordinance at issue. AutoReturn has stated its position in its Answer that it is opposed to Plaintiffs' prayer for preliminary injunction and Plaintiffs have no basis for asserting that AutoReturn has waived its opposition. AutoReturn also argues, and the Court agrees, that AutoReturn's decision not to file an opposition brief is a matter of its own prerogative and had no bearing on the merits of Plaintiffs' request for a preliminary injunction. Accordingly, the Court grants AutoReturn's Motion to Strike the second paragraph of part III on page 9 of Plaintiffs' Reply Brief.

IT IS SO ORDERED.

DATE: May 29, 2013

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT